

HOUSE BILL No. 1183

DIGEST OF INTRODUCED BILL

Citations Affected: IC 3-8.

Synopsis: Qualifications of candidates. Requires a declaration of intent to be a write-in candidate, a declaration of candidacy, and a petition of nomination to be signed by a candidate under the penalty for perjury. Requires a candidate to separately sign the statement that the candidate meets all the qualifications to be a candidate, including requirements relating to conviction of a felony.

Effective: July 1, 2004.

Lutz J

January 15, 2004, read first time and referred to Committee on Elections and Apportionment.

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Introduced

Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

HOUSE BILL No. 1183

A BILL FOR AN ACT to amend the Indiana Code concerning elections.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 3-8-2-2.5, AS AMENDED BY P.L.66-2003,
2 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2004]: Sec. 2.5. (a) A person who desires to be a write-in
4 candidate for a federal, state, legislative, or local office or school board
5 office in a general, municipal, or school board election must file a
6 declaration of intent to be a write-in candidate with the officer with
7 whom declaration of candidacy must be filed under sections 5 and 6 of
8 this chapter.

9 (b) The declaration of intent to be a write-in candidate required
10 under subsection (a) must be signed **under penalties for perjury**
11 before a person authorized to administer oaths and must certify the
12 following information:

13 (1) The candidate's name must be printed or typewritten as:

14 (A) the candidate wants the candidate's name to be certified;
15 and

16 (B) the candidate's name is permitted to appear under IC 3-5-7.

17 (2) A statement that the candidate is a registered voter and the



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location of the candidate's precinct and township (or ward and city or town), county, and state.

(3) The candidate's complete residence address, and if the candidate's mailing address is different from the residence address, the mailing address.

(4) The candidate's party affiliation or a statement that the candidate is an independent candidate (not affiliated with any party). For purposes of this subdivision, a candidate is affiliated with a political party only if the candidate satisfies section 7(a)(4) of this chapter.

(5) A statement of the candidate's intention to be a write-in candidate, the name of the office, including the district, and the date and type of election.

(6) If the candidate is a candidate for the office of President or Vice President of the United States, a statement declaring the names of the individuals who have consented and are eligible to be the candidate's candidates for presidential electors.

(7) A statement that the candidate:

(A) is aware of the provisions of IC 3-9 regarding campaign finance and the reporting of campaign contributions and expenditures; and

(B) agrees to comply with the provisions of IC 3-9.

The candidate must separately sign the statement required by this subdivision.

(8) A statement as to whether the candidate has:

(A) been a candidate for state or local office in a previous primary or general election; and

(B) filed all reports required by IC 3-9-5-10 for all previous candidacies.

(9) If the candidate is subject to IC 3-9-1-5, a statement that the candidate has filed a campaign finance statement of organization for the candidate's principal committee or is aware that the candidate may be required to file a campaign finance statement of organization not later than noon seven (7) days after the final date to file the declaration of intent to be a write-in candidate under section 4 of this chapter.

(10) If the candidate is subject to IC 3-9-1-5.5, a statement that the candidate is required to file a campaign finance statement of organization under IC 3-9 after the first of either of the following occurs:

(A) The candidate receives more than five hundred dollars (\$500) in contributions.

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- 1 (B) The candidate makes more than five hundred dollars
 2 (\$500) in expenditures.
- 3 (11) A statement that the candidate complies with all
 4 requirements under the laws of Indiana to be a candidate for the
 5 above named office, including any applicable residency
 6 requirements, and that the candidate is not ineligible to be a
 7 candidate due to a criminal conviction that would prohibit the
 8 candidate from serving in the office. **The candidate must**
 9 **separately sign the statement required by this subdivision.**
- 10 (12) The candidate's signature and telephone number.
- 11 (c) At the time of filing the declaration of intent to be a write-in
 12 candidate, the write-in candidate is considered a candidate for all
 13 purposes.
- 14 (d) A write-in candidate must comply with the requirements under
 15 IC 3-8-1 that apply to the office to which the write-in candidate seeks
 16 election.
- 17 (e) A person may not be a write-in candidate in a contest for
 18 nomination or for election to a political party office.
- 19 (f) A write-in candidate for the office of President or Vice President
 20 of the United States must list at least one (1) candidate for presidential
 21 elector and may not list more than the total number of presidential
 22 electors to be chosen in Indiana.
- 23 (g) The commission shall provide that the form of a declaration of
 24 intent to be a write-in candidate includes the following information
 25 near the separate signature required by subsection (b)(7):
- 26 (1) The dates for filing campaign finance reports under IC 3-9.
 27 (2) The penalties for late filing of campaign finance reports under
 28 IC 3-9.
- 29 (h) A declaration of intent to be a write-in candidate must include
 30 a statement that the candidate requests the name on the candidate's
 31 voter registration record be the same as the name the candidate uses on
 32 the declaration of intent to be a write-in candidate. If there is a
 33 difference between the name on the candidate's declaration of intent to
 34 be a write-in candidate and the name on the candidate's voter
 35 registration record, the officer with whom the declaration of intent to
 36 be a write-in candidate is filed shall forward the information to the
 37 voter registration officer of the appropriate county as required by
 38 IC 3-5-7-6(e). The voter registration officer of the appropriate county
 39 shall change the name on the candidate's voter registration record to be
 40 the same as the name on the candidate's declaration of intent to be a
 41 write-in candidate.
- 42 SECTION 2. IC 3-8-2-7, AS AMENDED BY P.L.69-2003,

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SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 7. (a) The declaration of each candidate required by this chapter must be signed **under penalties for perjury** before a person authorized to administer oaths and contain the following information:

- (1) The candidate's name, printed or typewritten as:
 - (A) the candidate wants the candidate's name to appear on the ballot; and
 - (B) the candidate's name is permitted to appear on the ballot under IC 3-5-7.
- (2) A statement that the candidate is a registered voter and the location of the candidate's precinct and township (or ward and city or town), county, and state.
- (3) The candidate's complete residence address, and if the candidate's mailing address is different from the residence address, the mailing address.
- (4) A statement of the candidate's party affiliation. For purposes of this subdivision, a candidate is considered to be affiliated with a political party only if any of the following applies:
 - (A) The most recent primary election in which the candidate voted was a primary election held by the party with which the candidate claims affiliation.
 - (B) The candidate has never voted in a primary election and claims a party affiliation.
 - (C) The county chairman of:
 - (i) the political party with which the candidate claims affiliation; and
 - (ii) the county in which the candidate resides;
 certifies that the candidate is a member of the political party.
 The declaration of candidacy must inform candidates how party affiliation is determined under this subdivision and permit the candidate to indicate on the declaration of candidacy which of clauses (A), (B), or (C) applies to the candidate. If a candidate claims party affiliation under clause (C), the candidate must attach to the candidate's declaration of candidacy the written certification of the county chairman required by clause (C).
- (5) A statement that the candidate complies with all requirements under the laws of Indiana to be a candidate for the above named office, including any applicable residency requirements, and that the candidate is not ineligible to be a candidate due to a criminal conviction that would prohibit the candidate from serving in the office. **The candidate must separately sign the statement**

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required by this subdivision.

(6) A request that the candidate's name be placed on the official primary ballot of that party to be voted on, the office for which the candidate is declaring, and the date of the primary election.

(7) A statement that the candidate:

(A) is aware of the provisions of IC 3-9 regarding campaign finance and the reporting of campaign contributions and expenditures; and

(B) agrees to comply with the provisions of IC 3-9.

The candidate must separately sign the statement required by this subdivision.

(8) A statement as to whether the candidate has been a candidate for state or local office in a previous primary or general election and whether the candidate has filed all reports required by IC 3-9-5-10 for all previous candidacies.

(9) If the candidate is subject to IC 3-9-1-5, a statement that the candidate has filed a campaign finance statement of organization for the candidate's principal committee or is aware that the candidate may be required to file a campaign finance statement of organization not later than noon seven (7) days after the final date to file the declaration of candidacy under section 11 of this chapter.

(10) The candidate's signature.

(b) The commission shall provide that the form of a declaration of candidacy includes the following information near the separate signature required by subsection (a)(7):

(1) The dates for filing campaign finance reports under IC 3-9.

(2) The penalties for late filing of campaign finance reports under IC 3-9.

(c) A declaration of candidacy must include a statement that the candidate requests the name on the candidate's voter registration record be the same as the name the candidate uses on the declaration of candidacy. If there is a difference between the name on the candidate's declaration of candidacy and the name on the candidate's voter registration record, the officer with whom the declaration of candidacy is filed shall forward the information to the voter registration officer of the appropriate county as required by IC 3-5-7-6(e). The voter registration officer of the appropriate county shall change the name on the candidate's voter registration record to be the same as the name on the candidate's declaration of candidacy.

SECTION 3. IC 3-8-5-10.5, AS AMENDED BY P.L.167-2001, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

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JULY 1, 2004]: Sec. 10.5. (a) A person who desires to be nominated for a town office by a major political party must file a declaration of candidacy with the circuit court clerk of the county containing the greatest percentage of population of the town.

(b) A declaration of candidacy must be filed:

(1) not earlier than January 1; and

(2) not later than:

(A) noon August 1 before a municipal election if the town nominates its candidates by convention; and

(B) the date that a declaration of candidacy must be filed under IC 3-8-2-4 if the town nominates its candidates by a primary election.

(c) The declaration must be subscribed and sworn to (or affirmed) **under penalties for perjury** before a notary public or other person authorized to administer oaths.

(d) The declaration of each candidate required by this section must certify the following information:

(1) The candidate's name, printed or typewritten as:

(A) the candidate wants the candidate's name to appear on the ballot; and

(B) the candidate's name is permitted to appear on the ballot under IC 3-5-7.

(2) That the candidate is a registered voter and the location of the candidate's precinct and township (or the ward and town), county, and state.

(3) The candidate's complete residence address and the candidate's mailing address if the mailing address is different from the residence address.

(4) The candidate's party affiliation and the office to which the candidate seeks nomination, including the district designation if the candidate is seeking a town legislative body seat.

(5) That the candidate complies with all requirements under the laws of Indiana to be a candidate for the above named office, including any applicable residency requirements, and is not ineligible to be a candidate due to a criminal conviction that would prohibit the candidate from serving in the office. **The candidate must separately sign the statement required by this subdivision.**

(6) The candidate's signature.

(e) Immediately after the deadline for filing, the circuit court clerk shall do all of the following:

(1) Certify to the town clerk-treasurer and release to the public a

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list of the candidates of each political party for each office. The list shall indicate any candidates of a political party nominated for an office under this chapter because of the failure of any other candidates of that political party to file a declaration of candidacy for that office.

(2) Post a copy of the list in a prominent place in the circuit court clerk's office.

(3) File a copy of each declaration of candidacy with the town clerk-treasurer.

(f) A person who files a declaration of candidacy for an elected office for which a per diem or salary is provided for by law is disqualified from filing a declaration of candidacy for another office for which a per diem or salary is provided for by law until the original declaration is withdrawn.

(g) A person who files a declaration of candidacy for an elected office may not file a declaration of candidacy for that office in the same year as a member of a different political party until the original declaration is withdrawn.

(h) A person who files a declaration of candidacy under this section may file a written notice withdrawing the person's declaration of candidacy in the same manner as the original declaration was filed, if the notice of withdrawal is filed not later than:

(1) noon August 1 before the municipal election if the town nominates its candidates by convention; and

(2) the date that a declaration of candidacy may be withdrawn under IC 3-8-2-20 if the town nominates its candidates in a primary election.

(i) A declaration of candidacy must include a statement that the candidate requests the name on the candidate's voter registration record be the same as the name the candidate uses on the declaration of candidacy. If there is a difference between the name on the candidate's declaration of candidacy and the name on the candidate's voter registration record, the officer with whom the declaration of candidacy is filed shall forward the information to the voter registration officer of the appropriate county as required by IC 3-5-7-6(e). The voter registration officer of the appropriate county shall change the name on the candidate's voter registration record to be the same as the name on the candidate's declaration of candidacy.

SECTION 4. IC 3-8-6-12, AS AMENDED BY P.L.66-2003, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 12. (a) A petition of nomination for an office filed under section 10 of this chapter must be filed **under penalties for**

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perjury with and, except as provided in subsection (d), certified by the person with whom a declaration of candidacy must be filed under IC 3-8-2.

(b) The petition of nomination must be accompanied by the following:

(1) The candidate's written consent to become a candidate.

(2) A statement that the candidate:

(A) is aware of the provisions of IC 3-9 regarding campaign finance and the reporting of campaign contributions and expenditures; and

(B) agrees to comply with the provisions of IC 3-9.

The candidate must separately sign the statement required by this subdivision.

(3) If the candidate is subject to IC 3-9-1-5, a statement by the candidate that the candidate has filed a campaign finance statement of organization under IC 3-9-1-5 or is aware that the candidate may be required to file a campaign finance statement of organization not later than noon seven (7) days after the final date for filing a petition for nomination under section 10 of this chapter.

(4) If the candidate is subject to IC 3-9-1-5.5, a statement by the candidate that the candidate is aware of the requirement to file a campaign finance statement of organization under IC 3-9 after the first of either of the following occurs:

(A) The candidate receives more than five hundred dollars (\$500) in contributions.

(B) The candidate makes more than five hundred dollars (\$500) in expenditures.

(5) A statement indicating whether or not each candidate:

(A) has been a candidate for state or local office in a previous primary or general election; and

(B) has filed all reports required by IC 3-9-5-10 for all previous candidacies.

(6) A statement that each candidate is legally qualified to hold the office that the candidate seeks, including any applicable residency requirements and restrictions on service due to a criminal conviction. **The candidate must separately sign the statement required by this subdivision.**

(7) If the petition is filed with the secretary of state for an office not elected by the electorate of the whole state, a statement signed by the circuit court clerk of each county in the election district of the office sought by the individual.

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(8) Any statement of economic interests required under IC 3-8-1-33.

(c) The statement required under subsection (b)(7) must:

(1) be certified by each circuit court clerk; and

(2) indicate the number of votes cast for secretary of state:

(A) at the last election for secretary of state; and

(B) in the part of the county included in the election district of the office sought by the individual filing the petition.

(d) The person with whom the petition of nomination must be filed under subsection (a) shall:

(1) determine whether a sufficient number of signatures as required by section 3 of this chapter have been obtained; and

(2) do one (1) of the following:

(A) If the petition includes a sufficient number of signatures, certify the petition.

(B) If the petition has an insufficient number of signatures, deny the certification.

(e) The secretary of state shall, by noon August 20:

(1) certify; or

(2) deny certification under subsection (d) to;

each petition of nomination filed in the secretary of state's office to the appropriate county.

(f) The commission shall provide that the form of a petition of nomination includes the following information near the separate signature required by subsection (b)(2):

(1) The dates for filing campaign finance reports under IC 3-9.

(2) The penalties for late filing of campaign finance reports under IC 3-9.

(g) A candidate's consent to become a candidate must include a statement that the candidate requests the name on the candidate's voter registration record be the same as the name the candidate uses on the consent to become a candidate. If there is a difference between the name on the candidate's consent to become a candidate and the name on the candidate's voter registration record, the officer with whom the consent to become a candidate is filed shall forward the information to the voter registration officer of the appropriate county as required by IC 3-5-7-6(e). The voter registration officer of the appropriate county shall change the name on the candidate's voter registration record to be the same as the name on the candidate's consent to become a candidate.

(h) If the person with whom the petition was filed denies certification under subsection (d), the person shall notify the candidate immediately by certified mail.

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- 1 (i) A candidate may contest the denial of certification under
2 subsection (d) based on:
3 (1) the circuit court clerk's or board of registration's failure to
4 certify, under section 8 of this chapter, qualified petitioners; or
5 (2) the determination described in subsection (d)(1);
6 using the procedure in IC 3-8-1-2 and section 14 of this chapter that
7 applies to questions concerning the validity of a petition of nomination.

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